

1 EDMUND G. BROWN JR.
Attorney General of the State of California
2 DAVID S. CHANEY
Chief Assistant Attorney General
3 FRANCES T. GRUNDER
Senior Assistant Attorney General
4 THOMAS S. PATTERSON
Supervising Deputy Attorney General
5 KENNETH T. ROOST, State Bar No. 231444
Deputy Attorney General
6 455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102-7004
7 Telephone: (415) 703-5824
Fax: (415) 703-5843
8 Email: Ken.Roost@doj.ca.gov

9 Attorneys for Defendants Fischer and Ruff

10
11 IN THE UNITED STATES DISTRICT COURT
12 FOR THE NORTHERN DISTRICT OF CALIFORNIA
13 SAN FRANCISCO DIVISION

14 **HAROLD B. SHAMBURGER,**

15 Plaintiff,

16 v.

17 **R. KIRKLAND, et al.,**

18 Defendants.
19

C 07-4597 JSW (PR)

**DEFENDANTS' WAIVER OF
REPLY UNDER 42 U.S.C. §
1997e(g); DEMAND FOR
JURY TRIAL**

20 **I. Defendants Waive Their Right to Reply to the Complaint.**

21 Defendants Tilton and Scavetta (Defendants) waive their right to reply to the complaint
22 under 42 U.S.C. § 1997e(g). Under 42 U.S.C. § 1997e(g):

23 Any defendant may waive the right to reply to any action brought by a prisoner
24 confined in any jail, prison, or other correctional facility under . . . Federal law.

25 Notwithstanding any other law or rule of procedure, such a waiver shall not
26 constitute an admission of the allegations contained in the complaint. No relief
27 shall be granted to the plaintiff unless a reply has been filed.
28

1 However, "the Court may require any defendant to reply to a complaint brought under this
2 section if it finds that the plaintiff has a reasonable opportunity to prevail on the merits." 42
3 U.S.C. § 1997e(g)(2).

4 Here, the Court has set a schedule for dispositive motions, but has not required any reply.
5 (See Order Directing Defs. to File Dispositive Mot. or Notice Re. such Mot.)

6 **II. Defendants Request a Jury Trial.**

7 Defendants demand a trial by jury in this case. Fed. R. Civ. P. 38(b).

8
9 Dated: June 5, 2008

10 Respectfully submitted,

11 EDMUND G. BROWN JR.
Attorney General of the State of California

12 DAVID S. CHANEY
Chief Assistant Attorney General

13 FRANCES T. GRUNDER
Senior Assistant Attorney General

14 THOMAS S. PATTERSON
Supervising Deputy Attorney General

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18 KENNETH T. ROOST
19 Deputy Attorney General
20 Attorneys for Defendants Fischer and Ruff

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DECLARATION OF SERVICE BY U.S. MAIL

Case Name: **Shamburger v. Kirkland, et al.**

Case No.: **C 07-4597 JSW (PR)**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service that same day in the ordinary course of business.

On June 5, 2008, I served the attached

DEFENDANTS' WAIVER OF REPLY UNDER 42 U.S.C. § 1997e(g); DEMAND FOR JURY TRIAL


by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the internal mail collection system at the Office of the Attorney General at 455 Golden Gate Avenue, Suite 11000, San Francisco, CA 94102-7004, addressed as follows:

Harold B. Shamburger
D-16530
Pelican Bay State Prison
P.O. Box 7000
Crescent City, CA 95531-7000
Pro Per

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on **June 5, 2008**, at San Francisco, California.

M. Xiang

Declarant



Signature